

2011 LBR Revisions – Part II

Redline of Proposed Local Bankruptcy Rule Changes to Conform to Federal Bankruptcy Rule Changes Effective December 2011

2003–1 MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS

(a) **Rescheduled § 341 Meeting.** Any request for the rescheduling of a § 341 meeting shall be addressed in the first instance to the trustee or, in a chapter 11 case, to the United States trustee or chapter 11 trustee. If a rescheduling request is granted prior to the originally scheduled § 341 meeting date, the debtor shall file and serve on all creditors and parties in interest a notice of the rescheduled meeting date, time, and location, and shall file a certification of service evidencing compliance.

(b) **Motion and Response.** Only upon denial of a request for rescheduling of a § 341 meeting may the party whose request was denied move the court to reschedule a § 341 meeting. The memorandum accompanying the motion must set forth the steps taken to secure a rescheduled meeting. Any response to the motion shall be filed within seven (7) days from the date of service as set forth on the certificate of service attached to the motion.

(c) **Adjourned § 341 Meeting.** If a § 341 meeting is ~~called~~ convened and then adjourned (continued) to a later date, the statement specifying the date and time to which the meeting is adjourned shall be filed pursuant to Rule 2003(e). ~~the party requesting the adjournment shall file and serve a notice of the adjourned meeting date, time and location, and shall file a certificate of service evidencing compliance. Service of the notice of adjourned meeting may be limited to parties in attendance at the originally convened § 341 meeting.~~

(d) **Transcript Request.** Any request for the transcript of a §341 meeting shall be made to the local United States trustee office.

3001–1 CLAIMS AND EQUITY SECURITY INTERESTS — GENERAL

(a) **Number of Copies.** A single proof of claim shall be filed. A claimant requesting return of a file-stamped copy must provide an additional copy of the claim and a stamped, self-addressed envelope.

(b) **Supersession by Duplicate.** A timely filed proof of claim that duplicates an earlier claim filed by the same entity, in the same amount, based upon the same transaction(s) and containing at least the same supporting documentation, and that is in all material aspects a "duplicate" claim, shall be deemed to supersede the earlier claim without need for an objection by any party or a court order to that effect.

(c) **Address of Claimant.** A claimant shall file and serve on the case trustee any change of address. Failure of the claimant or its agent to maintain a correct and updated address may cause the return of distribution checks to the trustee and may result in nonpayment of the claim.

(d) Chapter 12 and 13 Cases. Any unsecured creditor and any creditor asserting secured status as to property of the debtor or the estate, shall, in order to receive payments under a confirmed plan, file a proof of claim. A secured creditor's proof of claim shall include appropriate documentation evidencing the creditor's secured status.

(1) Mortgage Claims. If regular monthly payments to a mortgage creditor are to be disbursed by the trustee, or there is an arrearage as of the petition filing date, the mortgage proof of claim shall include ~~a completed LBR Form 3001-1 as an attachment.~~ [Official Form B 10 \(Attachment A\) Mortgage Proof of Claim Attachment. This form is required whether the security interest is in the debtor's principal residence or other parcel of real property.](#)

(2) Effect of Relief from Stay. An entity holding an allowed secured claim that obtains relief from the automatic stay shall receive no payments provided for in a confirmed plan on account of such secured claim after entry of the order lifting the stay. The entity may file an amended proof of claim for any deficiency claim after the collateral has been sold or otherwise disposed of. In the event the debtor retains the collateral after the stay has been lifted, payments to the creditor from the trustee may continue upon order of the court.

(3) Payment of Claims. Payment of claims shall be as provided for under the provisions of a confirmed plan or an order confirming a modified plan and the trustee is not required to accumulate funds for any claim for which a proof of claim has not been filed.

(4) Status. Except as otherwise provided by law, by specific order of the court, or by stipulation, the status of a claim as secured or unsecured will be determined from the claim as filed rather than as scheduled.

3015-1 CHAPTER 13 — PLAN

(a) Service of Plan.

(1) Plan Not Filed with Petition. If the chapter 13 plan is not filed with the petition or within seven (7) days thereafter, the debtor shall serve a copy of the plan on the trustee and all parties in interest, and shall file a certificate of service evidencing compliance.

(2) Service of Plan in Converted Case. If a case is converted from a chapter 7 case, the clerk shall serve a copy of the plan on all parties in interest. If the chapter 13 plan is not filed within seven (7) days of the order of conversion, the debtor shall serve a copy of the plan on all parties in interest, and shall file a certificate of service evidencing compliance.

(b) Contents of Plan.

(1) Minimal Requirements. The plan shall be signed by the debtor and shall clearly set forth the specified payment to be made to the trustee, the estimated length of the plan, and provisions showing compliance with § 1322(a) of the Code.

(2) Payment to General Unsecured Creditors. The plan must set forth the percentage payments to be made to general unsecured creditors or the total amount to be paid to the

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trustee under the plan. If the plan calls for a specific amount to be paid, an estimated percentage shall be set forth which assumes all claims will be filed as scheduled or estimated by the debtor.

(c) Treatment of Personal Property Loans, Leases and Executory Contracts.

(1) Proposed Treatment. The plan shall state clearly the treatment and payment proposed for each loan, lease or executory contract.

(2) Motor Vehicles. Unless otherwise ordered by the court, all vehicle payments, whether lease or loan, shall be made by the trustee. The plan shall specify the month in which the trustee's regular monthly disbursement on the lease or loan shall begin.

(3) Other Personal Property. Unless otherwise ordered by the court, all other lease or loan payments shall be made by the debtor.

(d) Treatment of Real Estate Mortgages.

(1) Method of Payment. Unless otherwise ordered by the court, regular monthly payments on a real estate mortgage pursuant to § 1322(b)(5) of the Code shall be disbursed by the trustee if the obligation is in arrears as of the petition filing date.

(2) Mortgage Proof of Claim. If regular monthly payments to a mortgage creditor are to be disbursed by the trustee, or there is an arrearage as of the petition filing date, the mortgage proof of claim shall include ~~LBR Form 3001-1 as an attachment.~~ Official Form B 10 (Attachment A) Mortgage Proof of Claim Attachment. This form is required whether the security interest is in the debtor's principal residence or other parcel of real property.

(3) Regular Monthly Payments to Mortgage Creditor. If regular monthly payments to a mortgage creditor are to be disbursed by the trustee, the plan shall specify the month in which the trustee's regular monthly disbursement to the mortgage creditor shall begin.

(4) Change in Regular Monthly Payments to Mortgage Creditor. If there is any change in the regular monthly payment, the mortgage creditor shall file with the court Official Form B 10 (Supplement 1) Notice of Mortgage Payment Change as an attachment to an amended proof of claim ~~an amended proof of claim or notice of payment change (LBR Form 3015-1(d)(4)),~~ and serve the debtor, debtor's attorney and chapter 13 trustee no later than twenty-one (21) ~~thirty (30)~~ days prior to the effective date of the change. This form is required whether the security interest is in the debtor's principal residence or other parcel of real property.

(e) Payment Method. Unless otherwise ordered by the court or agreed to by the trustee, funding of a chapter 13 plan shall be by payroll deduction. Payroll deduction shall be effected by order of the court. The order may be tendered by the debtor with the filing of the plan. No motion for payroll deduction is necessary.

(f) Exclusive Payment Through Plan. Unless otherwise ordered by the court, a debtor shall not pay directly a debt which the plan provides shall be paid by the trustee.

LBR Form 3001-1

If the mortgage is to be paid inside the plan, attach this form to the mortgage proof of claim.

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN/EASTERN DIVISION

In re:

Case No:

Chapter 13

Debtor(s)

Judge

PROOF OF CLAIM
MORTGAGE ARREARAGE BREAKDOWN ATTACHMENT

Current monthly payment amount is: \$ _____

Effective _____ (date) the new monthly payment \$ _____
is:

This mortgage IS/IS NOT subject to impound/escrow—i.e., taxes and insurance.

Address of property:

Principal balance as of the petition filing date: \$ _____

Monthly payment: \$ _____

Principal and \$ _____

interest

Taxes \$ _____

Insurance \$ _____

PMI \$ _____

Detail of arrearage:

____ (# of payments) from ____ (date) to ____ (date) @ \$ ____
\$ ____

____ (# of late charges) from ____ (date) to ____ (date) @ \$ ____
\$ ____

Costs and out-of-pocket expenses:

____ <u>Foreclosure title work</u>	\$ ____
____ <u>Filing fee</u>	\$ ____
____ <u>Skip trace</u>	\$ ____
____ <u>Document acquisition costs</u>	\$ ____
____ <u>Service process server</u>	\$ ____
____ <u>Other (specify):</u>	\$ ____

Other charges:

____ <u>Escrow shortage</u>	\$ ____
____ <u>Hazard insurance</u>	\$ ____
____ <u>(dates)</u>	
____ <u>Taxes</u> ____ <u>(dates)</u>	\$ ____
____ <u>Appraisal</u>	\$ ____
____ <u>BPO charges</u>	\$ ____
____ <u>Property inspection</u>	\$ ____
____ <u>Other (specify):</u>	\$ ____

TOTAL ARREARAGE: \$ ____

LBR Form 3015-1(d)(4)

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN/EASTERN DIVISION

In re:

Case No:

Chapter 13

Debtor(s)

Judge

NOTICE OF PAYMENT CHANGE
AS TO MORTGAGE PROOF OF CLAIM

Name of Creditor: _____

Address of Creditor:

Court Claim Number:

Address of Property: _____

In accordance with the terms of the Adjustable Rate Mortgage, this is notification that the
Interest Rate Payment Amount is adjusting as follows:

Payment Adjustment Date:

Current Monthly Payment Amount:

Old Interest Rate:

_____ %

New Interest Rate:

_____ %

New Principal and Interest Payment

If there is a change in the escrow amount (taxes or insurance), the change is for the following reasons: _____

Old Escrow Amount: _____

New Escrow Amount: _____

New Monthly Payment Including _____

Escrow: _____

Attached is a copy of the annual escrow account statement outlining the basis for the change.

Any questions should be directed to:

Name: _____

Address: _____

Telephone: _____

Email: _____

(Signature)

CERTIFICATE OF SERVICE

I hereby certify that on _____ (date), I served a copy of this Notice and all attachments to the following:

By U.S. Mail, postage pre-paid

Debtor:

By CM/ECF

Debtor's Attorney:

Trustee:

~~(Name)~~
~~(Title)~~
~~(Street Address)~~
~~(City, State and Zip Code)~~
~~(Telephone Number)~~
~~(Fax Number)~~
~~(Email Address)~~